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NOEL K. DESSAINT
CLERK SUPREME COURT
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SUPREME COURT OF ARIZONA

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>TIMOTHY STUART RING,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-97-0428-AP<br><br>Maricopa County<br>Superior Court<br>No. CR-95-01754(A) |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>LEMUEL PRION,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-99-0378-AP<br><br>Pima County Superior<br>Court<br>Nos. CR-58177 and<br>CR-60263 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>ANDRE LAMONT MINNITT,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-99-0243-AP<br><br>Pima County Superior<br>Court<br>No. CR-40086 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>BERNARD SMITH,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0272-AP<br><br>Yuma County Superior<br>Court<br>Nos. S1400CR198311801<br>and S1400CR198311817 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>ANTOIN JONES,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0536-AP<br><br>Maricopa County<br>Superior Court<br>No. CR96-04691 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>DANNY N. MONTANO,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0439-AP<br><br>Pima County Superior<br>Court<br>No. CR-58016 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>WAYNE BENOIT PRINCE,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0328-AP<br><br>Maricopa County Superior<br>Court<br>No. CR98-04885 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>MICHAEL GENE BLAKLEY,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0360-AP<br><br>Mohave County Superior<br>Court<br>No. CR-98-838 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>HENRY WILLIAM HALL,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0447-AP<br><br>Maricopa County Superior Court<br>No. CR1997-011695 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SHAWN RYAN GRELL,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0275-AP<br><br>Maricopa County Superior Court<br>No. CR 1999-095294 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>JAMES EDWARD DAVOLT, II,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0508-AP<br><br>Mohave County Superior Court<br>No. CR-98-1243 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>LEROY D. CROPPER,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0544-AP<br><br>Maricopa County Superior Court No. CR1997-03949 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SHAD DANIEL ARMSTRONG,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0595-AP<br><br>Pima County Superior<br>Court<br>No. CR-61846 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>EUGENE ROBERT TUCKER,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0091-AP<br><br>Maricopa County Superior<br>Court<br>No. CR1999-015293 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>KAJORNSAK PRASERTPHONG,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0100-AP<br><br>Pima County Superior<br>Court<br>No. CR-64663 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>CHRISTOPHER BO HUERSTEL,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0103-AP<br><br>Pima County Superior<br>Court<br>No. CR-64663 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SHERMAN LEE RUTLEDGE,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0129-AP<br><br>Maricopa County Superior Court<br>No. CR1997-05555 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>CHRISTOPHER GEORGE THEODORE LAMAR,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0270-AP<br><br>Maricopa County Superior Court<br>No. CR1996-011714 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>MICHAEL JOE MURDAUGH,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0421-AP<br><br>Maricopa County Superior Court<br>No. CR1995-006472 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>BRIAN JEFFREY DANN,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-02-0042-AP<br><br>Maricopa County Superior Court<br>No. CR1999-003536 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>ROBERT JOE MOODY,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-02-0044-AP<br><br>Pima County Superior<br>Court<br>No. CR-43804 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>KEITH ROYAL PHILLIPS,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0296-AP<br><br>Pima County<br>Superior Court<br>No. CR-61452 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>MARCUS LASALLE FINCH,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0551-AP<br><br>Pima County Superior<br>Court<br>No. CR-61452 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>JOHN EDWARD SANSING,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0438-AP<br><br>Maricopa County Superior<br>Court<br>No. CR-98-003520 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>JAMES CORNELL HARROD,<br><br>Appellant. | Supreme Court<br>No. CR-98-0289-AP<br><br>Maricopa County Superior Court<br>No. CR95-09046 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>DARREL PETER PANDELI aka DARREL PETER FLORIAN,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-98-0376-AP<br><br>Maricopa County Superior Court<br>No. CR-93-08116 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>SCOTT ALAN LEHR,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-97-0317-AP<br><br>Maricopa County Superior Court<br>No. CR 92-05731 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>ARTURO ANDA CANEZ,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-98-0488-AP<br><br>Pinal County Superior Court<br>No. CR-96-021235 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>AARON SCOTT HOSKINS,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-97-0349-AP<br><br>Maricopa County<br>Superior Court<br>No. CR-94-11397 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SCOTT DOUGLAS NORDSTROM,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-98-0278-AP<br><br>Pima County<br>Superior Court<br>No. CR-55947<br><br>**O R D E R** |

The pre-briefing conference was held on July 15, 2002, in open court with Andrew Hurwitz appearing as lead counsel for Appellants, John Stookey, Julie Hall and Rudolph Gerber, assisting for Appellants, and Kent Cattani, Assistant Attorney General, appearing for the State.

IT IS ORDERED:

1. The State shall file a single brief addressing the following:

A. The State shall identify those cases in which it is not asserting harmless error.

B. Whether Ring v. Arizona, 122 S. Ct. 2428 (2002), is inapplicable to any of the aggravating factors listed in A.R.S. § 13-703(G).

C. Whether the finding of an aggravating factor can be implicit in the jury's verdict of conviction. For example, whether a finding of A.R.S. § 13-703(G)(8) or (5) is implicit in a jury verdict of guilt of multiple counts of

homicide or felony murder, and if so, whether the appellant is therefore not entitled to resentencing under Ring. The brief shall identify which aggravating factor(s) in A.R.S. § 13-703(G) falls within this category.

D. Whether an appellant is entitled to resentencing under Ring if one aggravating factor was not subject to Ring or was explicitly or implicitly found by the jury, but appellant was deprived of a jury trial on others relied on by the trial court.

E. Whether an appellant is entitled to resentencing under Ring if the appellant conceded or did not challenge the aggravating factors found by the trial court. Whether an appellant is entitled to resentencing under Ring if the appellant conceded, or did not challenge, some but not all of the aggravating factors found by the trial court.

F. Whether an appellant is entitled to resentencing under Ring if the State did not argue harmless error in those cases in which the U.S. Supreme Court granted certiorari and remanded. (State v. Ring; State v. Sansing; State v. Harrod; State v. Pandeli)

G. Whether Ring explicitly or implicitly requires a jury to make Enmund/Tison findings.

H. Whether any new or amended capital sentencing statute would violate the state or federal Ex Post Facto Clause if applied to these cases.

I. Whether using a new jury (a jury other than the trial jury) to determine aggravating factors in these cases would violate the Double Jeopardy Clause.

J. Whether a sentence can be reduced to natural life if the crime was committed before A.R.S. § 13-703(A) was amended to allow a sentence of natural life.

K. Any other issue common to all or a significant number of the consolidated cases.

2. The State's brief shall be filed no later than August 14, 2002, and shall be no more than 75 pages in length.

3. Lead counsel for Appellants shall file a responsive brief no later than September 25, 2002, which shall be no more than 75 pages in length.

4. The State may file a reply brief no later than October 15, 2002, which shall be no more than 20 pages in length.

5. Jennifer Bedier and David Darby shall file a single brief addressing whether Ring applies to cases such as State v. Hoskins and State v. Nordstrom where the petition for writ of certiorari was denied (prior to the filing of Ring) but the direct appeal mandate has not been issued. The State shall file a simultaneous brief addressing the same issue. The briefs shall be filed no later than August 14, 2002, and shall be no more than 10 pages in length. Responsive briefs, limited to 5 pages, may be filed no later than August 21, 2002.

6. Counsel for any of the Appellants may move for permission to file a supplemental brief on any of the issues listed or on any other issue peculiar to their client's case. Any such motion shall explain why supplemental briefing is required and shall be filed no later than September 27, 2002.

DATED this 17th day of July, 2002.

STANLEY G. FELDMAN
Duty Justice

TO:
Janet A Napolitano, Arizona Attorney General
  Attn: Kent E Cattani
Andrew Hurwitz
John Stookey
Susan A Kettlewell, Pima County Public Defender
  Attn: Brian X Metcalf, Lori J Lefferts, Rebecca A McLean, John F Palumbo and Frank P Leto
Carla G Ryan
John W Rood III
James J Haas, Maricopa County Public Defender's Office
  Attn: Garrett W Simpson, Carol A Carrigan, Stephen R Collins, Lawrence S Matthew, Edward F McGee, James L Edgar, Charles R Krull, James R Rummage, Christopher Johns, James H Kemper, Terry J Adams, and Spencer D Heffel
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Richard L Strohm, Law Offices of Richard L Strohm
Susan M Sherwin, Maricopa County Legal Advocate
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Jonathan Bass, Arizona Death Penalty Judicial Assistance Program (Southern Counties) [Information Copy Only]
Andrew P Zinner, Arizona Death Penalty Judicial Assistance Program (Northern Counties) [Information Copy Only]

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SUPREME COURT OF ARIZONA

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>TIMOTHY STUART RING,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-97-0428-AP<br><br>Maricopa County<br>Superior Court<br>No. CR-95-01754(A) |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>LEMUEL PRION,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-99-0378-AP<br><br>Pima County Superior<br>Court<br>Nos. CR-58177 and<br>CR-60263 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>ANDRE LAMONT MINNITT,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-99-0243-AP<br><br>Pima County Superior<br>Court<br>No. CR-40086 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>BERNARD SMITH,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0272-AP<br><br>Yuma County Superior<br>Court<br>Nos. S1400CR198311801<br>and S1400CR198311817 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>ANTOIN JONES,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0536-AP<br><br>Maricopa County<br>Superior Court<br>No. CR96-04691 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>DANNY N. MONTANO,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-99-0439-AP<br><br>Pima County Superior<br>Court<br>No. CR-58016 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>WAYNE BENOIT PRINCE,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0328-AP<br><br>Maricopa County Superior<br>Court<br>No. CR98-04885 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>MICHAEL GENE BLAKLEY,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0360-AP<br><br>Mohave County Superior<br>Court<br>No. CR-98-838 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>HENRY WILLIAM HALL,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0447-AP<br><br>Maricopa County Superior Court<br>No. CR1997-011695 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SHAWN RYAN GRELL,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-01-0275-AP<br><br>Maricopa County Superior Court<br>No. CR 1999-095294 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>JAMES EDWARD DAVOLT, II,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0508-AP<br><br>Mohave County Superior Court<br>No. CR-98-1243 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>LEROY D. CROPPER,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-00-0544-AP<br><br>Maricopa County Superior Court No. CR1997-03949 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SHAD DANIEL ARMSTRONG,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-00-0595-AP<br><br>Pima County Superior Court<br>No. CR-61846 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>EUGENE ROBERT TUCKER,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0091-AP<br><br>Maricopa County Superior Court<br>No. CR1999-015293 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>KAJORNSAK PRASERTPHONG,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0100-AP<br><br>Pima County Superior Court<br>No. CR-64663 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>CHRISTOPHER BO HUERSTEL,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0103-AP<br><br>Pima County Superior Court<br>No. CR-64663 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SHERMAN LEE RUTLEDGE,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0129-AP<br><br>Maricopa County Superior Court<br>No. CR1997-05555 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>CHRISTOPHER GEORGE THEODORE LAMAR,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0270-AP<br><br>Maricopa County Superior Court<br>No. CR1996-011714 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>MICHAEL JOE MURDAUGH,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-01-0421-AP<br><br>Maricopa County Superior Court<br>No. CR1995-006472 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>BRIAN JEFFREY DANN,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-02-0042-AP<br><br>Maricopa County Superior Court<br>No. CR1999-003536 |

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| STATE OF ARIZONA,<br>Appellee,<br>v.<br>ROBERT JOE MOODY,<br>Appellant. | Arizona Supreme Court<br>No. CR-02-0044-AP<br><br>Pima County Superior Court<br>No. CR-43804 |
| STATE OF ARIZONA,<br>Appellee,<br>v.<br>KEITH ROYAL PHILLIPS,<br>Appellant. | Arizona Supreme Court<br>No. CR-99-0296-AP<br><br>Pima County Superior Court<br>No. CR-61452 |
| STATE OF ARIZONA,<br>Appellee,<br>v.<br>MARCUS LASALLE FINCH,<br>Appellant. | Arizona Supreme Court<br>No. CR-99-0551-AP<br><br>Pima County Superior Court<br>No. CR-61452 |
| STATE OF ARIZONA,<br>Appellee,<br>v.<br>JOHN EDWARD SANSING,<br>Appellant. | Arizona Supreme Court<br>No. CR-99-0438-AP<br><br>Maricopa County Superior Court<br>No. CR-98-003520 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>JAMES CORNELL HARROD,<br><br>Appellant. | Supreme Court<br>No. CR-98-0289-AP<br><br>Maricopa County Superior Court<br>No. CR95-09046 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>DARREL PETER PANDELI aka DARREL PETER FLORIAN,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-98-0376-AP<br><br>Maricopa County Superior Court<br>No. CR-93-08116 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>SCOTT ALAN LEHR,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-97-0317-PR<br><br>Maricopa County Superior Court<br>No. CR 92-05731 |

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| STATE OF ARIZONA,<br><br>Appellee,<br>v.<br><br>ARTURO ANDA CANEZ,<br><br>Appellant. | Arizona Supreme Court<br>No. CR-98-0488-AP<br><br>Pinal County Superior Court<br>No. CR-96-021235 |

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| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>AARON SCOTT HOSKINS,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-97-0349-AP<br><br>Maricopa County<br>Superior Court<br>No. CR-94-11397 |
| STATE OF ARIZONA,<br><br>Appellee,<br><br>v.<br><br>SCOTT DOUGLAS NORDSTROM,<br><br>Appellant. | ) | Arizona Supreme Court<br>No. CR-98-0278-AP<br><br>Pima County<br>Superior Court<br>No. CR-55947<br><br>**O R D E R** |

In light of this Court's opinion filed August 20, 2002, vacating convictions and sentences on all counts, including the sentence of death, and remanding the case to the trial court,

IT IS ORDERED that State v. Prion, CR-99-0378-AP, is removed from the consolidated cases and the consolidated caption amended accordingly.

DATED this 1st day of October, 2002.

RUTH V. McGREGOR
Justice

TO:
Janet A Napolitano, Arizona Attorney General
Attn: Kent E Cattani
Andrew Hurwitz
John Stookey
Susan A Kettlewell, Pima County Public Defender
Attn: Brian X Metcalf, Lori J Lefferts, Rebecca A McLean, John F Palumbo and Frank P Leto
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Andrew P Zinner, Arizona Death Penalty Judicial Assistance Program (Northern Counties) [Information Copy Only]

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| STATE OF ARIZONA, | ) | Arizona Supreme Court |
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| Appellee, | ) | |
| | ) | Pima County |
| v. | ) | Superior Court |
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| SCOTT DOUGLAS NORDSTROM, | ) | |
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| Appellant. | ) | |
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**O R D E R**

In light of this Court's opinion filed October 11, 2002, vacating convictions and sentences entered at the conclusion of the 1999 trial and instructing the trial court to dismiss the charges against Minnitt with prejudice,

IT IS ORDERED: that State v. Minnitt, CR-99-0243-AP, is removed from the consolidated cases and the consolidated caption amended accordingly.

FURTHER ORDERED: because of the death of inmate Bernard Smith on December 11, 2002, State v. Smith, CR-01-0272-AP, is also removed from the consolidated cases and the consolidated caption amended accordingly.

DATED this 14th day of January, 2002.

Ruth V. McGregor

RUTH V MCGREGOR
Vice Chief Justice

TO:
Hon Terry Goddard, Arizona Attorney General
Attn: Kent E Cattani, Jon G Anderson, and Robert L Ellman
Andrew Hurwitz and John A Stookey
Susan A Kettlewell, Pima County Public Defender
Attn: Brian X Metcalf, Lori J Lefferts, Rebecca A McLean, John F Palumbo and Frank P Leto
Carla G Ryan
John W Rood, III
James J Haas, Maricopa County Public Defender
Attn: Garrett W Simpson, Carol A Carrigan, Stephen R Collins, Lawrence S Matthew, Edward F McGee, James L Edgar, Charles R Krull, James R Rummage, Christopher Johns, James H Kemper, Terry J Adams, and Spencer D Heffel
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Richard L Strohm, Law Offices of Richard L Strohm
Susan M Sherwin, Maricopa County Legal Advocate
Attn: Brent E Graham,
Michael S Reeves, Maricopa County Office of Court Appointed Counsel
J Douglas McVay
Stephen M Johnson
David Alan Darby
Richard C Bock, Lingeman and Bock
Thomas J Phalen
Tara K Allen
Lawrence J Fox
Edward F Novak
Jonathan Bass, Arizona Death Penalty Judicial Assistance Program (Southern Counties) [Information Copy Only]
Andrew P Zinner, Arizona Death Penalty Judicial Assistance Program (Northern Counties) [Information Copy Only]